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VIETNAM

CASE STUDY

Arbitration Guidelines Boost Business

New ordinance helps ease the resolution of business disputes



Photo: STAR

Judicial officials attend a training workshop on arbitration procedures.

Vietnam's Ordinance on Commercial Arbitration has established a much stronger legal foundation for resolving disputes through arbitration.

Challenge

While arbitration can be a fast and cost-effective way of resolving business disputes, it was rarely used in Vietnam, due to legal roadblocks, including a narrow definition of commercial activities and restrictions on the choice of arbitrators and rules. And although Vietnam joined the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, many foreign awards have not been enforced because of the country's narrow definition of commercial activities. A bilateral agreement with the United States requires Vietnam to broaden the flexibility and scope of commercial arbitration and improve enforcement of foreign arbitral awards.

Initiative

USAID supported an initiative to help draft the new Ordinance on Commercial Arbitration that would conform to international standards and stimulate trade and investment. Established in September 2003, the new ordinance gives a broader definition of commercial activities covered by arbitration, outlines court support of domestic arbitration proceedings and provides for enforcement of domestic arbitration awards. In early 2004, USAID helped develop regulations for the ordinance and supported training programs for 500 lawyers, judges, businesses and local government officials on the new arbitration procedures and typical operations.

Results

The Ordinance on Commercial Arbitration and its related regulations have established a much stronger legal foundation for resolving disputes through arbitration in Vietnam, benefiting both foreign and domestic actors. This important step for Vietnam's broader legislative reforms has also helped the country meet key obligations of the U.S.-Vietnam Bilateral Trade Agreement and given a boost to its efforts to join the World Trade Organization. The full benefit of the ordinance will be realized over time, as the number of skilled arbitrators in Vietnam increases and as Vietnamese businesses and judges improve their understanding of how arbitration procedures should operate.